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Canada, Privileges and Elections,
Standing Committee on, 1955

HOUSE OF COMMONS

Second Session—Twenty-second Parliament

1955

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STANDING COMMITTEE

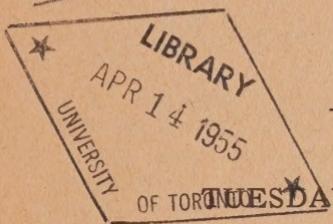
ON

PRIVILEGES AND ELECTIONS

Chairman: G. Roy McWILLIAM, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8



TUESDAY, MARCH 29, 1955

CANADA ELECTIONS ACT

WITNESS:

Mr. Nelson J. Castonguay, Chief Electoral Officer.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

MINUTES OF PROCEEDINGS

House of Commons, Room Sixteen,
TUESDAY, March 29, 1955.

The Standing Committee on Privileges and Elections met at 10.30 o'clock a.m. The Chairman, Mr. G. Roy McWilliam, presided.

Members present: Messrs. Cardin, Cavers, Dechene, Harrison, Hollingsworth, Leboe, MacDougall, MacKenzie, McWilliam, Nowlan, Pouliot, Richard (Ottawa East), Robinson (Bruce), White (Waterloo South), and Zaplitny.

In attendance: Mr. Nelson J. Castonguay, Chief Electoral Officer, and Mr. E. A. Anglin, Q.C., Assistant Chief Electoral Officer; Captain J. P. Dewis, R.C.N., Deputy Judge Advocate General, representing the Department of National Defence.

The Committee resumed its section by section study of the Canada Elections Act, together with the amendments thereto, suggested by the Chief Electoral Officer and other sources. Representations dealing with the Act were also considered by the Committee.

Mr. Nelson J. Castonguay, Chief Electoral Officer, was recalled.

The Committee reverted to Section 34 of the Act.

On motion of Mr. MacDougall,

Resolved,—

That the Committee recommend that Subsection (4) of Section 34 of the said Act be repealed and the following substituted therefor:

(4) Agents of candidates or electors representing candidates may absent themselves from and return to the polling station at any time before the close of the poll.

With the exception of the amendment to Subsection (4) thereof, it was agreed that the said section remain otherwise unchanged.

On Section 50

Representations made to the Committee by His Honour Judge Robert Forsyth were considered.

On motion of Mr. MacDougall,

Resolved,—

That the Committee recommend to the House that Subsection (10) of said Section 50 of the said Act be repealed and the following substituted therefor:

"(10) The deputy returning officer shall, with the ballot box, transmit or deliver to the returning officer in the envelope provided for that purpose

(a) the preliminary statement of the poll in the form prescribed by the Chief Electoral Officer, and

(b) the polling station account filled in and signed by the deputy returning officer".

It was agreed that Section 50 otherwise remain unchanged.

Sections 51, 52 and 53 were severally considered and the Committee agreed that they remain unchanged.

On Section 54

Consideration was given by the Committee to representations by His Honour Judge Robert Forsyth in connection with Subsections (1) and (2) of the said Section.

On motion of Mr. MacDougall,
Resolved,—

That the Committee recommend to the House that subsection (2) of Section 54 of the Canada Elections Act be repealed and the following substituted therefor:

"(2) The judge to whom applications under this section may be made shall be the judge as defined in subsection (15) of section 2 within whose judicial district is situated the place where the official addition of the votes was held or the judge acting for such judge pursuant to paragraph (f) of that subsection or a judge designated by the Minister of Justice under that paragraph, and any judge who is authorized to act by this section may act, to the extent so authorized, either within or without his judicial district."

It was agreed that Section 54 otherwise remain unchanged.

Sections 55, 56, 57 and 58 were severally studied and it was agreed that the said Sections remain unchanged.

On Section 59

On motion of Mr. MacDougall,
Resolved,—

That the Committee recommend to the House that the said Section be amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

"(2a) Where a Superior Court or a judge thereof has ordered the production of any election documents or election papers, the Chief Electoral Officer need not, unless the court or judge otherwise orders, appear personally to produce such documents or papers, but it is sufficient if the Chief Electoral Officer certifies such documents or papers and transmits them by registered mail to the clerk or registrar of the court, who shall, when such documents have served the purposes of the court or judge, return them by registered mail to the Chief Electoral Officer; any such documents or papers purporting to be certified by the Chief Electoral Officer are receivable in evidence without further proof thereof."

It was agreed that Section 59 otherwise remain unchanged.

After study thereon it was agreed that Sections 60 and 61 of the Act remain unchanged.

On Section 62

On motion of Mr. Harrison,
Resolved,—

That the Committee recommend that the said section be amended as follows:

(a) that the words "one thousand dollars" appearing in Paragraph (a) of Subsection (4) thereof be deleted and that the words "two thousand dollars" be substituted therefor;

(b) by deleting the words "one thousand dollars" where they appear in subsection (15) thereof and substituting therefor the words "two thousand dollars".

It was agreed that Section 62 otherwise remain unchanged.

Sections 63 to 67 inclusive were severally studied and the Committee agreed that the said sections remain unchanged.

On Section 68

Representations made by Mr. Egan Chambers, Mount Royal, Quebec, were considered by the Committee. However, it was agreed that the provisions of the said Section remain unchanged.

Sections 69 to 93 inclusive were severally studied and the Committee agreed that the said sections remain unchanged.

At this stage, the Committee reverted to Section 87 and it was agreed that the Chief Electoral Officer review the provisions of the said Section with officials of the Department of Justice.

At the suggestion of Mr. Harrison, it was agreed that the Committee proceed with the study of Section 100 of the Act.

On motion of Mr. MacKenzie,

Resolved,—

That the Committee recommend to the House the following amendments:

(1) Paragraph (c) of subsection (1) of section 100 of the said Act is repealed and the following substituted therefor:

(c) members of the House of Commons, or of the Legislative Assembly of any province of Canada, or of the Council of the Northwest Territories or the Yukon Territory;

(2) Paragraph (e) of subsection (1) of section 100 of the said Act is repealed and the following substituted therefor:

(e) judges of the courts of superior, civil or criminal jurisdiction, judges of any county or district court, or bankruptcy or insolvency court, and any district judge of the Exchequer Court on its Admiralty side, and in the Yukon Territory and the Northwest Territories, police magistrates;

(3) Subsection (2) shall come into force on the day the *Northwest Territories Act*, chapter 331 of the Revised Statutes of Canada, 1952, comes into force.

Mr. Harrison also moved that Paragraph (d) of Subsection (1) of Section 100 be deleted. After discussion, the suggestion was made that the provisions of the said Paragraph might be made to not apply to the electoral districts listed in Schedule Four of the Act.

It was finally agreed that the Chief Electoral Officer would submit the appropriate amendment at a later date.

At the request of Mr. Zaplitny, Sections 94, 95, 96 and 97 were stood over.

Sections 98, 99, and 101 to 108 inclusive, were severally considered and the Committee agreed that the said Sections remain unchanged.

On Section 109.

On motion of Mr. Hollingworth,

Resolved,—That the Committee recommend to the House the following amendment:

Subsection (1) of section 109 of the said Act is amended by adding the word "and" at the end of paragraph (a) thereof, by repealing paragraphs (b), (c), and (d) thereof and substituting the following therefor:

(b) the days for the sittings for the revision of the lists of electors for urban polling divisions shall be Thursday, Friday and Saturday, the eleventh, tenth and ninth days before polling day, and, subject to Rule (36) of Schedule A to section 17, Tuesday, the sixth day before polling day.

It was agreed that Section 109 otherwise remain unchanged.

Sections 110 to 113 inclusive, were severally studied and the Committee agreed that the said sections remain unchanged.

On Section 114.

On motion of Mr. White (*Waterloo South*),

Resolved,—That the Committee recommend to the House the following amendment:

Section 114 of the said Act is amended by adding thereto the following subsection:

(4) The qualifications for electors for Northwest Territories elections shall be those established pursuant to section 9 of the *Northwest Territories Act* and in force six months prior to the polling day for such elections.

On motion of Mr. Richard (*Ottawa East*),

Resolved,—That the Canada Elections Act be amended as follows:

1. (1) The said Act is further amended by adding thereto the following section:

115. (1) Elections of members to the Council of the Yukon Territory (in this section called "Yukon Territory elections") shall be conducted in accordance with the provisions of this Act subject to this section and to such adaptations and modifications as the Chief Electoral Officer, with the approval of the Commissioner of the Yukon Territory, directs as being necessary by reason of conditions existing in the Yukon Territory to conduct effectually Yukon Territory elections.

(2) The procedure prescribed by section 109 shall be followed in the preparation, revision and distribution of the list of electors for Yukon Territory elections.

(3) Sections 14, 16, 19 and 20 do not apply to Yukon Territory elections.

(4) The qualifications of electors for Yukon Territory elections shall be those established pursuant to section 14 of the *Yukon Act* and in force six months prior to the polling day for such election.

(2) This section shall come into force on a day to be fixed by proclamation of the Governor in Council.

2. The said Act is further amended by adding thereto the following section:

116. (1) In this section, "election material" includes instructions, forms, record books, index books, ballot papers, poll books and copies of Acts or regulations or portions thereof, and any other supplies.

(2) Any election material authorized or required for the purposes of or in relation to by-elections, Northwest Territories elections or Yukon Territory elections by any Act providing for the election of members of the House of Commons may, in lieu of the election material authorized or required by any revision of such Act, be used for the purposes of or in relation to by-elections, Northwest Territories elections or Yukon Territory elections held before the first general election next after the coming into force of such revised Act; and references in election material so used to any Act, regulation, rule, schedule or form or any part or provision thereof shall be construed as a reference to the corresponding Act, regulation, rule, schedule, form, part or provision thereof in force upon the coming into force of such revised Act.

The Committee then proceeded to the study of Schedule One of the Act. With the exception of such of the recommended amended forms which appear hereunder, it was agreed that the said Schedule otherwise remain unchanged.

On motion of Mr. White (*Waterloo South*),
Resolved,—

That Forms Nos. 5 and 6 of Schedule One to the said Act were repealed and the following substituted therefor:

"FORM No. 5.

APPOINTMENT OF ENUMERATOR.

(Sec. 17, Sched. A, Rule 1, and Sched. B, Rule 1.)

To (*insert name of enumerator*), whose address is (*insert address*).

Know you that, in pursuance to the *Canada Elections Act*, I, the undersigned, in my capacity of returning officer for the electoral district of do hereby appoint you enumerator for polling division No..... of the said electoral district to prepare a list of the electors qualified to vote at the pending election in such polling division.

Given under my hand at....., this.....

day of....., 19....

.....
Returning Officer.

FORM No. 6.

OATH OF OFFICE OF ENUMERATOR.

(Sec. 17, Sched. A, Rule 1, and Sched. B, Rule 3.)

I, the undersigned, appointed enumerator for polling division No.....
 of the electoral district of
 do swear (*or solemnly affirm*) that I will act faithfully in my said capacity of
 enumerator, without partiality, fear, favour or affection. So help me God.

.....
*Enumerator.*CERTIFICATE OF THE ENUMERATOR HAVING TAKEN THE
OATH OF OFFICE.

I, the undersigned, do hereby certify that on the.....
 day of 19...., the enumerator above named
 subscribed before me the above set forth oath (*or affirmation*) of office.

In testimony whereof I have issued this certificate under my hand.

.....
*Returning Officer or Postmaster
 (or as the case may be)."*

On motion of Mr. Richard (Ottawa East),
 Resolved,—

That Form No. 14 of Schedule One to the said Act is repealed and the
 following substituted therefor:

“FORM No. 14.

NOTICE OF REVISION.

(Sec. 17, Sched. A, Rule 23.)

Electoral district of

PUBLIC NOTICE IS HEREBY GIVEN THAT sittings for the revision of the
 preliminary lists of electors for the urban polling divisions comprised in the
 above mentioned electoral district will be held on each of the following three
 days, namely: Thursday, Friday and Saturday, the,
 and days of,
 19...., (*Insert the dates of the 18th, 17th and 16th days before polling day*)
 when the preliminary lists of electors for the urban polling divisions comprised
 in each of the following revisal districts will be revised by the undermentioned
 revising officers at the places specified below:

CITY (OR TOWN) OF

FOR REVISAL DISTRICT No. 1, comprising polling divisions Nos..... of the above mentioned electoral district, the sittings for revision will be held at (*Insert exact location of the revisal office*) before (*Insert full name of revising officer*) who has been appointed revising officer.

(Proceed as above in respect of any other revisal district.)

NOTICE IS FURTHER GIVEN THAT, during the sittings for revision on the Thursday and Friday aforesaid, any qualified elector in one of the above mentioned revisal districts may, before the revising officer for such revisal district, subscribe to an affidavit attacking the qualifications as elector of any other person whose name appears on the preliminary list of electors for one of the polling divisions comprised in such revisal district.

THAT, during the sittings for revision on the Thursday, Friday and Saturday aforesaid, the revising officer shall dispose of the following applications:

- (a) personal applications for registration made verbally, without previous notice, by electors whose names were omitted from the preliminary lists of electors, pursuant to Rule (32) of Schedule A to section 17 of the *Canada Elections Act*;
- (b) sworn applications made by agents on Forms Nos. 17 and 18 of the said Act, on behalf of persons claiming the right to have their names included in the official lists of electors, pursuant to Rule (33) of Schedule A to section 17 of the said Act; and
- (c) verbal applications for the correction of names or particulars of electors appearing on the preliminary lists of electors, made, without previous notice, pursuant to Rule (35) of Schedule A to section 17 of the said Act.

THAT each of the sittings for revision will open at ten o'clock in the forenoon and will continue for at least one hour and during such time thereafter as may be necessary to deal with the business ready to be disposed of.

THAT, moreover, on the above mentioned Thursday, Friday and Saturday fixed for the sittings for revision, each revising officer will sit in his revisal office from seven o'clock until 10 o'clock in the evening of each of these days.

AND THAT the preliminary lists of electors prepared by urban enumerators, to be revised as aforesaid, may be examined during reasonable hours in my office at (*Insert location of office of returning officer*).

NOTICE IS FURTHER GIVEN THAT, if any qualified elector in one of the above mentioned revisal districts has, before the revising officer for such revisal district, subscribed to an affidavit attacking the qualifications as elector of any other person whose name appears on the preliminary list of electors for one of the polling divisions comprised in such revisal district, further sittings for revision will be held on Tuesday, the day of, 19...., (*Insert the date of the thirteenth day before polling day*) at the same place and times as the sittings for revision on the Thursday, Friday and Saturday aforesaid, and that during the sittings for revision on the Tuesday aforesaid, the revising officer shall dispose of the objections made on affidavits in

Form No. 15 of the said Act to the retention of names on the preliminary lists of electors, of which the revising officer has given notice in Form No. 16 of the said Act to the persons concerned pursuant to Rule (28) of Schedule A to section 17 of the said Act.

Given under my hand at....., this

(Print name of returning officer)
"Returning Officer"

On motion of Mr. Cardin, *Resolved*,—That forms Nos. 16 and 17 of Schedule One to the said Act are repealed and the following substituted therefor:

"FORM No. 16.

NOTICE TO PERSON OBJECTED TO.

(Sec. 17, Sched. A, Rule 28.)

Electoral district of

Revisal district No.

To (set out name, address and occupation of the person objected to as these appear on the preliminary list of electors, also addressing a copy of the notice and affidavit to another address, if any, given in paragraph 3 of the attached Affidavit of Objection).

Take notice that the attached Affidavit of Objection to the retention of your name on the preliminary list of electors for one of the urban polling divisions comprised in the above mentioned revisional district has been subscribed before me and that this affidavit of objection will be dealt with during my sittings for revision which will be held at No..... street, in the City (or Town) of..... on Tuesday, the..... day of, 19...., (Insert the date of the 13th day before polling day) where I may be found from ten o'clock until eleven o'clock in the forenoon and from seven o'clock until ten o'clock in the evening.

Take notice also that you may appear before me in person or by representative during any of the above mentioned sittings for revision to sustain your right, if any, to have your name retained on such preliminary list.

This notice is given pursuant to Rule (28) of Schedule A to section 17 of the *Canada Elections Act*.

Dated at this day of ..
....., 19....

.....
Revising Officer.

FORM No. 17.

SWORN APPLICATION TO BE MADE BY THE AGENT OF AN ELECTOR.

(Sec. 17, Sched. A, Rule 33.)

Electoral district of
 To the Revising Officer for Revisal district No. comprised in the above mentioned electoral district.

I, the undersigned, (*insert name, address and occupation of agent*), do swear (*or solemnly affirm*).

1. That I am a qualified elector of the above mentioned electoral district and that my name properly appears on the preliminary list of electors for polling division No. of the said electoral district.

2. That pursuant to the provisions of Rule (33) of Schedule A to section 17 of the *Canada Elections Act*, I hereby apply for the registration of the name of (*insert full name, address and occupation, in capital letters, with family name first, of the person on whose behalf the application is made*) on the official list of electors for urban polling division No. comprised in the above mentioned revisal district.

3. That the name, address and occupation of the person on whose behalf this application is made, as set forth in the annexed application in Form No. 18, are, to the best of my knowledge and belief, correctly stated.

4. That the said annexed application in Form No. 18 is signed in the handwriting of the person on whose behalf this application is made (or, owing to his temporary absence from the place of his ordinary residence, the alternative application printed on the back of the said Form No. 18 has been duly sworn (*or affirmed*) by a relative by blood or marriage or the employer of such person).

Sworn (*or affirmed*) before me at

.....
 this day of, 19..... } *(Signature of deponent)"*

.....
Revising Officer (or as the case may be).

On motion of Mr. White (*Waterloo South*) Resolved:—that form No. 19 of Schedule One to the said Act is repealed and the following substituted therefor:

“FORM NO. 19.

REVISING OFFICER'S STATEMENT OF CHANGES AND ADDITIONS MADE IN AN URBAN PRELIMINARY LIST OF ELECTORS.

(Sec. 17, Sched. A, Rule 40.)

Electoral District of

Polling Division No.

Revisal District No.

The following names have been added to the urban preliminary list of electors:

Name of Street (or as the case may be)	Street No.	Apart- ment No.	Name of Elector (Family name first)	Occupation	Remarks

The following entries in the urban preliminary list of electors have been corrected so as to appear as follows:

Name of Street (or as the case may be)	Street No.	Apart- ment No.	Name of Elector (Family name first)	Occupation	Consecutive number of elector on list of electors

The following names appearing in the urban preliminary list of electors have been struck out:

Name of Street (or as the case may be)	Street No.	Apart- ment No.	Name of Elector (Family name first)	Occupation	Consecutive number of elector on list of electors

CERTIFICATE.

I hereby certify that the foregoing is a correct statement of all the changes and additions that have been made in the urban preliminary list of electors for the above mentioned polling division in the course of the revision.

Dated at....., this.....

day of....., 19....

.....
Revising Officer."

On motion of Mr. Pouliot,
Resolved,—

That form No. 22 of Schedule One to the said Act is repealed and the following substituted therefor:

"FORM NO. 22.

NOTICE OF RURAL ENUMERATION.

(Sec. 17, Sched. B, Rule 3.)

Electoral District of.....

Rural Polling Division No.....

(insert name, if any)

Comprising:

(In the above space, the rural enumerator will insert in full the description of the boundaries of his polling division.)

Notice is hereby given that the undersigned has been appointed enumerator for the above mentioned rural polling division, that he is about to prepare a preliminary list of the electors who are qualified to vote therein at the pending general election and that he will complete the said preliminary list on Saturday,

the..... day of....., 19.....

(insert the date of Saturday, the forty-fourth day before polling day)

And that during the hours between ten o'clock in the forenoon and ten o'clock in the evening of Thursday, the.....

(insert the date of Thursday, the

day of....., 19....., he will

eighteenth day before polling day)

attend and remain at.....

(insert description of the place where the enumerator intends to remain)

so that he may be found by any person who desires to direct attention to any error in any entry appearing on the said preliminary list or to represent that such list does not contain the name of an elector who is qualified to vote in the above mentioned rural polling division at the pending general election or does contain the name of any person who is not so qualified to vote.

And that in order that the said preliminary list shall be available for inspection by interested persons, a copy thereof will, forthwith after its completion, be posted up at the place above described and will remain so posted up until all proper changes have been made on the said list.

And that after ten o'clock in the evening of the Thursday above mentioned, no further changes will be made, and a copy of the said preliminary list together with a copy of the statement of changes and additions will constitute the official list of electors to be used for the taking of the votes at the pending general election in the rural polling division aforesaid.

Dated at....., this.....

day of....., 19....

Rural Enumerator."

On motion of Mr. Mackenzie,

Resolved,—

That form No. 31 of Schedule One to the said Act is repealed and the following substituted therefor:

“FORM No. 31.

APPOINTMENT OF DEPUTY RETURNING OFFICER. (Sec. 26.)

To (*insert name of D.R.O.*) whose address is (*insert address*).

Know you that I, in my capacity of returning officer for the electoral district of..... do hereby appoint you to be deputy returning officer for polling station No. of the said electoral district which has been established at (*describe location of polling station*);

That you are authorized and required to open the poll at the said polling station on the..... day of....., 19...., at eight o'clock in the forenoon and to keep the said poll open until six o'clock in the afternoon of the same day, and there to take by ballot the votes of the qualified electors at the said polling station according to the procedure set forth in the Instructions for Deputy Returning Officers issued by the Chief Electoral Officer;

And that, after having counted the votes cast for the various candidates and performed all the other necessary duties, you are required to transmit to me forthwith the ballot box, sealed with a special metal seal, enclosing only two envelopes, one containing the official statement of the poll and the other containing the poll book, the ballot papers—unused, spoiled, rejected and counted for each candidate—each lot in its proper envelope, together with the official list of electors and the other documents used at the taking of the votes.

Given under my hand at....., this.....
day of....., 19.....

.....
Returning Officer.”

On motion of Mr. Richard (*Ottawa East*),

Resolved,—That Form No. 40 of Schedule One to the said Act is repealed and the following substituted therefor:

"FORM No. 40.

POLL BOOK. (Sec. 36 (6).)

Particulars of elector				
Consecutive number given each elector as he applies for a ballot paper	Name of elector (Family name first)	Occupation (<u>No occupation will be inserted in the case of a woman who is not designated with an occupation on the official list</u>)	Post office address	Consecutive number of elector on official list
Form numbers of oaths, if any, the elector is required to swear	Record that oaths sworn or refused (If sworn, insert "Sworn" or "Affirmed"; if refused, insert "Refused to be sworn" or "Refused to Affirm" or "Refused to Answer")	Particulars of person vouching, in a rural polling division only, under section 46, for an elector whose name is not on the official list.	Name	Consecutive number of vouching elector on official list
				Record that oath (Form No. 50) sworn (when sworn insert "Sworn")
Record that elector has voted (When ballot paper put into ballot box, insert "Voted")		Remarks		

On motion of Mr. MacKenzie,

Resolved,—That forms Nos. 56 and 57 of Schedule One to the said Act are repealed and the following substituted therefor:

“FORM No. 56.

OATH OF DEPUTY RETURNING OFFICER AT THE CLOSE OF THE POLL.

(Sec. 50(7).)

I, the undersigned, appointed deputy returning officer for polling station No..... of the electoral district of do swear (or solemnly affirm) that, to the best of my knowledge and belief, the poll book used at the said polling station has been kept correctly; that I have faithfully counted the votes cast for each candidate; that I have faithfully performed all my other duties as deputy returning officer; and that the official statement of the poll, poll book, ballot papers, and other necessary documents will be correctly prepared and placed in the ballot box, to the end that the said ballot box, being first locked and sealed with a special metal seal, may be regularly transmitted to the returning officer for the above mentioned electoral district. So help me God.

.....
Deputy Returning Officer.

Sworn (or affirmed) before me at,
this day of, 19.....

.....
Poll Clerk (or as the case may be).

FORM No. 57.

OATH OF POLL CLERK AT THE CLOSE OF THE POLL.

(Sec. 50(7).)

I, the undersigned, appointed poll clerk for polling station No..... of the electoral district of, do swear (or solemnly affirm) that the poll book used at the said polling station has been kept to the best of my ability; that the total number of electors registered therein as having voted at this election is; that the said poll book contains a true and exact record of the taking of the votes at the said polling station; and that I have faithfully performed all my other duties as poll clerk. So help me God.

.....
Poll Clerk.

Sworn (*or affirmed*) before me at,
this day of, 19.....

.....
*Deputy Returning Officer
(or as the case may be)."*

During study of the said Schedule one representation made thereon by His Honour Judge Forsyth, Mr. Egan Chambers and Miss Leonora Starr were considered.

Form 66 in Schedule One was stood over.

At 12.00 o'clock noon, the Committee adjourned to meet again at 10.30 o'clock a.m., Thursday, March 31, 1955.

*Antoine Chassé,
Clerk of the Committee.*

EVIDENCE

MARCH 29, 1955
10.30 a.m.

The CHAIRMAN: Gentlemen, I see that we have a quorum and we will proceed.

Mr. Nelson J. Castonguay, Chief Electoral Officer, recalled.

The CHAIRMAN: Firstly if it is agreeable we will revert to section 34. You will recall that yesterday we asked the Chief Electoral Officer to suggest an amendment to sub-section (4) thereof. You all have a copy of Mr. Castonguay's suggested amendment before you this morning. It is as follows:

Subsection (4) of section 34 of the said Act is repealed and the following substituted therefor:

(4) Agents of candidates or electors representing candidates may absent themselves from and return to the polling station at any time before the close of the poll.

Is that agreeable to the committee?

Mr. MACDOUGALL: I so move.

The CHAIRMAN: Is it agreed?

Mr. NOLAN: This enables an agent to come and go, but suppose that a new one comes. What is the opinion of the Chief Electoral Officer on that?

The WITNESS: The agent may arrive at any time. Therefore, if he arrives at ten minutes to six, he is sworn in.

Mr. ROBINSON (Bruce): I understood that the Act says that he must be sworn in before the poll opens?

The WITNESS: Not necessarily. In order to examine the ballot papers and other voting supplies, he must be there before the poll opens, but he does not have to be sworn in before the poll opens.

The CHAIRMAN: Section 34, except to amendment to subsection (4) thereof, otherwise remains unchanged?

Agreed.

The CHAIRMAN: There is a suggested amendment to section 50, sub-section (10). Clause 11, which is found on page 8 of the draft amendment. We carried that draft amendment at a preceding sitting. Does section 50, with the amendment to subsection (10) thereof, carry?

Mr. MACDOUGALL: I so move.

Carried.

The CHAIRMAN: Section 51?

No change.

The CHAIRMAN: Section 52?

No change.

The CHAIRMAN: Section 53?

No change.

The CHAIRMAN: Section 54, "Recount by Judge". A draft amendment to section 54 (2) was carried at a previous meeting. That is clause 12 of the draft amendment, found on page 8. Shall section 54 as amended carry?

Carried.

The CHAIRMAN: Section 55?

No change.

The CHAIRMAN: Section 56, "Election Return".

By Mr. Nowlan:

Q. I should like to ask the Chief Electoral Officer about section 56 (1) (i), which says "returns from the various polling stations enclosed in sealed envelopes" and so forth. I believe that at one time some question arose with respect to that, as to just what were included in those documents. You get your list under the service voting regulations, and the ruling of the Chief Electoral Officer at that time was that those were under the control of the Department of National Defence, and there were no lists or anything else available. Now, under the new services voting regulations, they are supposed to have a list. I am wondering if that was included in the return. It was not at one time.—A. I think that you were referring to the outer envelope which was sent with the ballots.

Q. We have since amended the service voting regulations, and so presumably a list is prepared of the voters qualified to vote. That was not in force at that particular time.—A. No, the list was not in force. It was provided in 1951 that a list be supplied of the Canadian forces electors, with their names and places of ordinary residence.

Q. Will that list be included among the returns, or is that under the Department of National Defence? Is there any machinery whereby you get the list?—A. Yes, in paragraph 81 of the Canadian Forces Voting Regulations. Certain documents are enumerated therein that are to be sent to me, but I do not think that these lists were at any time the property of the Department of National Defence. I think that you are referring to a recount in 1949. It was the outer envelope that raised the problem. That was considered to be an election document and could not be produced at the recount, but the judge allowed the envelope to be examined anyway. In regard to this other matter of the list of electors in a unit, it was remedied in 1951 by an amendment which was made at that time.

Q. What about the outer envelope now?—A. They are still considered an election document in the same manner as a poll book. They are election documents and are not producible at a recount. Only the ballots are producible. At a recount the judge can examine the ballots and no other documents.

The CHAIRMAN: Section 56?

No change.

The CHAIRMAN: Section 57?

No change.

The CHAIRMAN: Section 58?

No change.

The CHAIRMAN: Section 59. There is an amendment to be found on page 9 of the draft amendments, clause (13), which was carried at the second meeting of the committee. Shall the amendment to section 59 carry?

Carried.

The CHAIRMAN: Section 60?

No change.

The CHAIRMAN: Section 61.

No change.

The CHAIRMAN: Section 62.

Mr. LEBOE: Is not section 62 (4) (b) exactly the same as section 64(15) in regard to the \$1,000? What is the reason for having the two?

Mr. RICHARD (*Ottawa East*): The candidate is entitled to spend \$1,000 for personal expenses.

The WITNESS: Yes. Anything over \$1,000 has to be paid by the official agent.

The CHAIRMAN: Is that clear?

Mr. NOWLAN: What is the reason for subsection (8)? I think it is unjust, and I am quite sure that it is not complied with too often. It says that after thirty days a man cannot recover. For instance, in regard to printing, I have a friend who has a local newspaper and he may be printing for me during the election. Unless he sends a bill within thirty days after the election, I could say to him, if I wanted to, that he did not send the bill on time and that he was going to lose the money. I suppose that with election expenses they usually get them in as fast as they can anyway. But it seems to be an invitation to defraud someone of a legitimate bill for printing or something if the person is a little careless in sending in his bill.

The WITNESS: A candidate is required to file his election expenses within sixty days after the candidate has been finally declared elected. It may be preferable that all the bills be paid so that the candidate will be able to comply more readily with section 63 (1).

Mr. NOWLAN: I am sure that they do not all send them in within sixty days. It seems to me that there is an invitation to defraud there.

Mr. MACDOUGALL: They are cleaned up within forty-eight hours in my riding.

Mr. NOWLAN: You are in a very fortunate position. They are not cleaned up in mine in forty-eight hours.

Mr. HARRISON: With regard to section 62 (4) (a) about the date—

Mr. LEBOE: That is what I meant. I was referring to (a) and not (b).

Mr. HARRISON: Are we not on section 62?

The CHAIRMAN: That is right.

Mr. HARRISON: With regard to section 62 (4) (a), it says a member has to spend \$1,000 on his own account. I do not know how this works out in other areas, but in mine the \$1,000 does not go very far for travel expenses. To carry an official agent with you would double the expenses. When you have to fly over a large area, such as mine, it costs more than that.

The WITNESS: A candidate may spend on his own \$1,000 for personal expenses, and if he exceeds that his official agent must pay for any expenses over that amount.

Mr. HARRISON: You may not have your official agent with you. At the last election I ran into this very thing. I have to go through Alberta to get into the Athabasca area by T.C.A. By the time I am in Edmonton I have already taken up my \$1,000, and I have to spend \$125 to go by T.C.A. to Uranium city. My official agent is five or six hundred miles away, and I cannot carry him with me on the trip. That is the situation which you find arises. I do not think that \$1,000 is sufficient in those northern areas. It is sufficient

if you are close to the official agent, in the cities, or where you can get hold of him, but up there you cannot very well carry him with you. In urban areas you do not have to do any flying.

The CHAIRMAN: The official agent could purchase your return ticket before you leave.

Mr. HARRISON: What is the sense? To give you a perspective of the thing; suppose that your official agent is here in Ottawa and you are flying from Windsor, how are you going to do business with your official agent when he is here and you are in Windsor? That is the whole problem. Distances there are a matter of four hundred or five hundred miles.

The CHAIRMAN: It is up to the committee. If it feels that it is too small, it could raise the "ante".

Mr. HARRISON: It may not occur in many ridings, but there may be four or five across the country where that situation exists. I do not doubt that it applies in the Northwest Territory. If they have to do any flying, the flying expenses are considerably higher than mine. It is not always possible to have your official agent handy. If you take him with you and pay double on this, you are going to run into more expense still.

Mr. RICHARD (*Ottawa East*): I think that we would have to amend subsection (15) before we amend that, if the committee wishes to do so. Subsection (15) declares what the amount is. Is that not right?

The WITNESS: Yes, it is.

The CHAIRMAN: Yes, it sets it at \$1,000.

Mr. RICHARD (*Ottawa East*): Subsection (15) is the one that declares it.

Mr. NOWLAN: I think that is a reasonable suggestion and we should amend that. Speaking without prejudice, I do not think that there is a single candidate here, at least in rural areas, who does not spend over \$1,000 in personal expenses. I am willing to admit that I have to travel hundreds of miles. I do not have to fly, but I have to charter two different motor boats to go to two different islands. You cannot carry your agent around with you to pay your out-of-pocket expenses, and it is usually hard enough for a man who is elected official agent. He does not want to do that. I do not know for how long that section has been in, but I suspect that it has been quite a while. The cost of living has been doubled in the past few years, and I would prefer to see sections in here which are enforceable rather than have something like the old prohibition laws which would be held in contempt. I would say that this is held in contempt by at least every candidate of whom I know. I do not know of any candidate who did not have to pay more than \$1,000. Perhaps it is reasonable in the city, but not for people like Mr. Harrison and perhaps for yourself, Mr. Chairman. I suspect that you would look slightly askance at the section. I suggest that it be at least doubled.

The CHAIRMAN: Would somebody like to suggest an amendment and make a motion?

Mr. HARRISON: I would move that the words "one thousand dollars" be taken out of section 62 (4) (a), and "two thousand dollars" substituted therefor.

Mr. MACDOUGALL: You have to amend subsection (15).

Mr. HARRISON: Subsection (15) would have to be amended likewise, taking out "one thousand dollars" and substituting therefor "two thousand dollars".

The CHAIRMAN: Are you ready for the question? Is it agreed?

Agreed.

Shall the suggested amendment of Mr. Harrison to section 62 carry?
Carried.

Mr. LEBOE: Will you have to amend that part where it says: "by a candidate, out of his own money for his personal expenses to an aggregate amount not exceeding one thousand dollars"?

The CHAIRMAN: Mr. Harrison moved that, for subsections (4) (a) and (15). Shall section 62, except for the adopted proposed amendment otherwise remain unchanged?

Agreed.

The CHAIRMAN: Section 63?

No change.

The CHAIRMAN: Section 64?

No change.

The CHAIRMAN: Section 65, "Bribery, Treating, Undue Influence and Personation"?

Mr. LEBOE: Under section 65, I should like the Chief Electoral Officer to comment on the phrase, "on his behalf". There is nothing about his consent. Maybe I am grabbing at straws, but that phrase, "on his behalf" could be worked against you. This section 65, under (a) or (b) or (c) has nothing about the consent of the individual. It says: "on his behalf". I do not know how important it is.

Mr. RICHARD (*Ottawa East*): "On his behalf" means "with his consent".

The CHAIRMAN: I think that the law officers who drafted that must have been aware of that.

The CHAIRMAN: Section 65?

No change.

The CHAIRMAN: Section 66?

No change.

The CHAIRMAN: Section 67?

No change.

The CHAIRMAN: Section 68?

No change.

The CHAIRMAN: Section 69?

No change.

The CHAIRMAN: Section 70?

No change.

The CHAIRMAN: Section 71?

No change.

The CHAIRMAN: Section 72?

No change.

The CHAIRMAN: Section 73?

No change.

The CHAIRMAN: Section 74?

No change.

The CHAIRMAN: Section 75?

No change.

The CHAIRMAN: Section 76?

No change.

The CHAIRMAN: Section 77?

No change.

The CHAIRMAN: Section 78?

No change.

The CHAIRMAN: Section 79? "Fines, etc., for non-indictable offences". No change?

Agreed.

The CHAIRMAN: Section 80? "Disqualification for corrupt act". No change?

Agreed.

The CHAIRMAN: Section 81? "Corrupt or illegal practices". No change?

Agreed.

The CHAIRMAN: Section 82. "Candidate not to be convicted unless corrupt practice done by himself, agent, or with his knowledge". No change?

Agreed.

The CHAIRMAN: Section 83. "Election not voided unless illegal practices by candidate or agent". No change?

Mr. NOWLAN: Is there any conflict there?

The WITNESS: I do not think so. I only have a passing interest in these sections.

The CHAIRMAN: Agreed?

Agreed.

The CHAIRMAN: Section 84. "Non-compliance with Act not to invalidate election unless it affected result." No change?

Agreed.

The CHAIRMAN: Section 85. "Removal of disqualification procured by perjury". No change?

Agreed.

The CHAIRMAN: Section 86. "Recovery of penalties and forfeitures". No change?

Agreed.

The CHAIRMAN: Section 87. "No privileges from answering questions". No change?

Mr. NOWLAN: There was a little mixup over that section, as the Chief Electoral Officer stated.

The WITNESS: I think it had to do with the change made in the Act in 1938, and it was dealt with by that committee. I have only a passing interest in these particular provisions.

Agreed to no change.

The CHAIRMAN: Section 88. "Production of writ of election, etc., not required in suits".

Mr. MACDOUGALL: There is no change.

Agreed.

The CHAIRMAN: Section 89. "Criminal court may allow costs to prosecutor". No change?

Agreed.

The CHAIRMAN: Section 90. "In a suit for criminal corrupt practice, what allegation sufficient".

Mr. MACDOUGALL: There is no change. That only gives work to the lawyers.

The CHAIRMAN: No change?

Agreed.

The CHAIRMAN: Section 91. "Person liable summoned to court". No change? Agreed.

The CHAIRMAN: Section 92. "Limitation of time for prosecutions and suits". No change?

Agreed.

The CHAIRMAN: Section 93. "Quarter or general sessions court incompetent". No change?

Agreed.

Mr. NOWLAN: Mr. Chairman, I would like to go back to section 87 for a moment. I am not interested one way or the other, but I think we should understand what the situation is there. That deals with the privilege. It says:

No persons shall be excused from answering any question put to him in any action, suit or other proceeding, in any court, or before any judge, commissioner or other tribunal touching or concerning any election, or the conduct of any person therat, or in relation thereto, on the ground of any privilege, except that no elector shall be obliged to state for whom he voted at any election; but no answer given by any person claiming to be excused on the ground of privilege shall be used in any criminal proceeding against such person other than an indictment for perjury, if the judge, commissioner or president of the tribunal gives to the witness a certificate that he claimed the right to be excused on such ground, and made full and true answers to the satisfaction of the judge, commissioner or tribunal.

I think that is a pretty clear statement. He shall not be obliged to "state". But there was another section in the Act which was taken out in 1938 and that section said that no elector could be asked for whom he voted. And that was taken out. But in the meantime, the Supreme Court of Canada have ruled on several election cases that, that you could not ask the question. So there have not been any cases since that section was removed in 1938, where the court has ruled that you cannot ask the man that question. They based their ruling on a former section which has been repealed, and I think this makes it pretty clear.

If you want to say that he should be allowed to say, I would like to see the section amended, so that any electors, while he shall not be obliged to state for whom he voted in any election, might do so if he wishes, or something to that effect. It would clear up the law. The other section was repealed and the court does not recognize that repeal; and when you look at that section on the face of it, I think, no elector shall be obliged to "state". I know a case where there were a dozen electors who were prepared to go on the witness stand and say that they voted for a certain person. Yet the court held that they could not be asked that question. I think if they want to—while they should not be compelled to—but if a man wants to say for whom he voted, then he should be allowed to say it.

Mr. WHITE (Waterloo South): Is it not implied in that?

Mr. NOWLAN: I am sure it is implied, but the court, unfortunately—where the ruling was given—the Chief Justice cited the section on which he established the decision—this was before the Supreme Court in Nova Scotia, and they said they would like to do it, but they felt they were bound by the Supreme Court of Canada, and that this matter should be clarified by the House of Commons.

The CHAIRMAN: Is that based on the secrecy of the vote?

Mr. NOWLAN: That was the section which was taken out in 1938.

The CHAIRMAN: Does anybody else wish to comment?

Mr. NOWLAN: I suggest that the Chief Electoral Officer have a look at it and make such suggestions as he may care to.

The WITNESS: It may be because in the Act there are restrictions or penalties provided for people who divulge how they voted. You cannot tell anyone how you voted at the polls. It may be that this principle is being carried on for the purpose of any court action. It may be that the change was made to continue to protect the secrecy in any further proceedings which may be taken after the polling has taken place.

Mr. NOWLAN: I know that the courts have commented on it and it seems a silly thing.

The CHAIRMAN: What are the views of the committee in this regard?

Mr. RICHARD (*Ottawa East*): I think the section is very clear; if he is not obliged to say for whom he voted, he does not have to, although he may if he wishes.

Mr. NOWLAN: I agree with you completely. That is my feeling; but the Supreme Court of Canada says that he cannot. We have that judgment of the Supreme Court of Canada.

Mr. RICHARD (*Ottawa East*): Under the old section.

Mr. NOWLAN: Yes.

Mr. RICHARD (*Ottawa East*): But it would not be the same then.

Mr. NOWLAN: The court said he could not do it. There were two cases of which I know of. Neither of them was reported. But in both cases, in the province of Nova Scotia the Supreme Court said that they believed the question should be answered, but they felt bound by the decision of the Supreme Court of Canada which says that a man cannot be asked. So he could not do it.

Mr. HOLLINGWORTH: Are you saying that there were two cases on this particular phrase?

Mr. NOWLAN: Yes. Perhaps the Chief Electoral Officer might review the law about it and speak to the committee before we are through.

The WITNESS: I can take it up with the Department of Justice.

The CHAIRMAN: Is that agreed?

Agreed.

Mr. HARRISON: I wonder if the committee would care to study section 100 right now because they are looking for me on the committee on railways and shipping. There is something I wanted to take up in connection with section 100, particularly with respect to subsection 1 (d) which says:

“Ministers, priests or ecclesiastics of any religious faith or worship;”

The CHAIRMAN: Does Mr. Harrison have agreement on this matter?

Agreed.

Mr. HARRISON: I would like to propose that Section 100, subsection 1, paragraph (d) be deleted and for this reason: in northern areas we have Metis, and fishing communities which are made up of Metis Indians and others, and there is nobody in the area capable of running a poll, or even reading or writing except the local missionaries, to whatever faith they may belong. I know in my own riding it is impossible for a returning officer to observe that section. He cannot observe it to the letter. The only thing he can do is to get the local minister or priest, or whatever it might be, at least to guide somebody and do all his writing for him. Somebody else may have his name on the forms that he is the election officer, whereas in fact he is not. The local minister has to do the work. I think that provision should be deleted and that it should be left to the returning officer of the riding to use his own judgment.

The CHAIRMAN: Do you so move?

Mr. HARRISON: I so move. Possibly Mr. Castonguay would support me in that.

The WITNESS: We do run into those difficulties in northern constituencies which are sparsely settled, and we run into circumstances where the only people who can read and write in such areas are priests, ministers, or ecclesiastics of any religious faith. I agree wholeheartedly with Mr. Harrison. I think that many times the person appointed as deputy returning officer is really just there in name only, and that it is the minister, priest, or ecclesiastic of any religious faith who actually helps him with his duties. I would certainly support Mr. Harrison on that matter. We have that difficulty in these remote areas.

The CHAIRMAN: Are you ready for the question?

Mr. ZAPLITNY: No doubt this subsection has been in the Act for a long time. Can someone in the committee who has been here longer than I tell us why it was put in there in the first place?

The WITNESS: It has been there as long as there has been an Election Act. My guess would be as good as that of any member of the committee as to why it is there. There are certain reasons, but my guess would only be a personal one and not based on facts.

Mr. WHITE (Waterloo South): Could you not leave this section as it is and add the words "except with the special permission of the Chief Electoral Officer"?

Mr. RICHARD (Ottawa East): That is the idea.

The CHAIRMAN: Would you be willing to change your motion to that effect?

Mr. HARRISON: That will be satisfactory to me.

The WITNESS: This suggestion would present other difficulties; it is very difficult to obtain my permission because you have the returning officer flying around in those remote areas. He will try to find somebody to be deputy returning officer and if he should need my consent he has no means of communicating with me, he would be in that remote area and probably have chartered a plane to go there. How could he possibly get my consent? It would mean that he would have to fly back in order to get my consent and then make another trip back. There is your problem. I think that my prior permission is not a good idea. I would rather see it left to the discretion of the returning officer. Moreover, I do not think that ministers and priests would normally be too anxious to act as deputy returning officers. In those remote areas it is only in cases of necessity that they do agree to assist. From my own experience I would say that they were not anxious to take such positions, but they are willing to help out where necessary.

The returning officer, I am sure, would continue to appoint election officers from the same sources as in the past. I do not imagine he would be appointing persons mentioned in this clause. I would rather see the discretion left solely with the returning officer. From a practical point of view I do not see how this permission could be obtained from me in remote areas. Every constituency which borders upon the Northwest Territories, Hudson's bay and James bay has that problem to some extent. He might have gone there six months before and found persons other than ecclesiastics to act as election officers in a particular poll. But after the writ issues when he comes back, he may find that the trader has gone, and there is only the priest or the minister there. The returning officer can only appoint election officers after the writ issues, after which he travels in his district with the election supplies to appoint his election officers. There is very little time then for him to get consent from me if this situation arises. I am not saying that the difficulty exists throughout these areas, but it does happen in places where you have Eskimos and Indians, and at places which are remote. In very remote places you are bound to run into those difficulties. I think it would hinder the returning officer if he required my prior approval. I feel that the returning officer in heavily populated areas would not try to choose the persons mentioned in clause (d) to act as election officers, as I do not think such persons would be too anxious to take such positions.

Mr. HARRISON: I thought that it might be left to the returning officer within the riding. That would not be too bad. He should have some flexibility in the northern areas as to whom he may appoint.

You are doing just exactly what my amendment asks for. You are employing these ecclesiastics up there because they are the only people who can read and write. The name may read "Mrs. Sandy Point" on the form, but it does not mean anything. It means that the local priest or minister is actually doing the work. That happens in several polls in my riding, and it cannot be otherwise regardless of how it is run. In some cases people have to be taken in by plane or thirty or forty miles by canoe, in order to man the polls because there is nobody there who can read or write and can run the polls.

The WITNESS: If this clause was repealed it would put me in the good graces of the Auditor General. I appointed a scrutineer in the Maritimes who was a retired clergyman. I thought that the provisions of this subsection would not apply to a retired clergyman; but the Auditor General raised the doubt whether a retired clergyman is not barred by the provisions of this subsection to act as scrutineer.

The CHAIRMAN: Mr. Harrison's motion is that paragraph (d) of subsection 1 of section 100 be deleted. Are you ready for the question?

Mr. NOWLAN: We all know the principle which is back of this. It is one which I think we all want to extend. It seems to me that there should be some limitation put on it however. If it could be restricted to the Northern Territories, then well and good. But I do not think we should violate the whole principle.

The WITNESS: We could confine it to the constituencies which are mentioned in Schedule four.

Mr. MACDOUGALL: A few years ago I think we passed an amendment naming certain northern ridings. Would it be agreeable to you if those ridings were designated in there?

Mr. NOWLAN: That is what I had in mind.

The WITNESS: It is found at page 231 of the Act and it is schedule 4 of the Act. The names of the constituencies are all listed in that schedule. There is now a period of twenty-eight days between nomination day and polling

day in these electoral districts. This would apply in most of those constituencies. If the committee wishes me to prepare an amendment along those lines, linking it up with schedule 4, I would be glad to do so.

The CHAIRMAN: I am going to put the motion now. Mr. Harrison's amendment is to the effect that with the exception of the constituencies mentioned in schedule 4—or should we have the Chief Electoral Officer prepare an amendment? Would that be agreeable to the committee?

The WITNESS: It would be that the restrictions of clause (d) do not apply to the electoral districts mentioned in schedule 4 to the Act.

The CHAIRMAN: Is it agreed that the Chief Electoral Officer will bring in an amendment?

Mr. MACDOUGALL: Before we pass on the whole section, could I ask about subsection (c), which is just above, where it says: "Members of the House of Commons, or of the Legislative Assembly of any province of Canada, or of the Yukon Territorial Council". Can I be assured that that applies also to the Mackenzie river area?

The WITNESS: We have an amendment for that, sir, which was carried at a previous meeting. It is clause 15 on page 9 of my book of suggested amendments.

The CHAIRMAN: Now we shall revert to section 94.

Mr. ZAPLITNY: Will you permit sections 94, 95 and 96 to stand? I am not prepared to go on with the motion of which I gave notice. It is in process of being typed at the present time.

The CHAIRMAN: Is it agreed that these sections stand?

Agreed.

The CHAIRMAN: Would that be sections 94, 95, 96 and 97?

Mr. ZAPLITNY: I am not too sure whether it affects section 97.

The CHAIRMAN: We had better stand it over in case it does.

Section 98.

No change.

Section 99.

No change.

Section 101, "Political broadcasts", on page 117.

No change.

Section 102.

No change.

Section 103.

No change.

Section 104.

No change.

Section 105.

No change.

Section 106.

No change.

Section 107.

No change.

Section 108.

No change.

Section 109.

There is an amendment to section 109, which is to be found in clause (16) on page 10 of the draft amendment. It was carried at our second meeting.

Moved by Mr. Hollingworth.

Shall section 109 as amended carry?

Carried.

Section 110.

No change.

Section 111.

No change.

Section 112.

No change.

Section 113.

No change.

Section 114.

There is an amendment which you will find in clause 17 on page 10 of the draft bill. It was carried at our second meeting.

Mr. WHITE (*Waterloo South*): I so move.

The CHAIRMAN: Mr. White moves that the suggested amendment to section 114 carry.

Carried.

Mr. ZAPLITNY: We have reached the end of the sections. Before we go to the schedules—

The CHAIRMAN: We have an amendment here in respect to the Yukon territory elections. You have copies of this proposed amendment which were delivered to the members some time ago, with regard to the conduct of the election in the Yukon territory.

The WITNESS: That was an amendment to implement the taking of the votes for the Yukon territorial council under the Canada Elections Act. It is basically the same as section 114 on page 122, but instead of the Northwest Territorial Council, it is the Yukon territorial council.

The CHAIRMAN: Is it agreed?

Agreed.

The CHAIRMAN: The draft bill, on page 115, was carried, I think, at our second meeting. It is just a change in the number of the clause.

Mr. WHITE (*Waterloo South*): I so move.

The CHAIRMAN: Carried.

Mr. CARDIN: I wonder if I may ask a question on section 101. I just wondered whether that section also includes broadcasts on television.

The WITNESS: Yes, it was amended in 1951 to include television by the definition in subsection (2). That definition includes broadcasts by television.

Mr. CARDIN: Thank you.

The CHAIRMAN: Schedule One, on page 123.

Mr. ZAPLITNY: Before we go to the schedules, I apologize for not being here on time when section 54 was being considered. I understand that no amendment was made to section 54. I was just wanting to draw attention to the

last three lines of that section, which has given rise to confusion in the past. That is section 54 (1) on page 79 of the Act, dealing with the recount by the judge. The last three lines of subsection (1) say: "the said judge shall appoint a time within four days after the receipt of the said affidavit to recount the said votes". There was a case in point at a recent election where there were two different interpretations of that section. It could mean that a judge shall appoint a time for a recount within four days, that is, that the recount must be held within four days; or that the time shall be set within four days as to when the recount is to be held at some future time. In my particular constituency it did come to a dispute. It was felt that the wrong interpretation was made by the judge, and it stuck. In order to avoid that confusion in the future, I wondered if it could not be clarified. I would take it to mean that the judge shall appoint a time within four days. It was taken to mean that he will set a time within four days, that he shall pick a time, and that time is not necessarily a time within four days but it can be at some future time. It can also be taken to mean that the judge can appoint a time within four days for the recount; in other words, that the recount shall be held within four days. I think it lends itself to two interpretations. If it could be clarified, it would only take a few words to make it clear as to what is meant in that sentence.

The WITNESS: What is meant, is that the judge will hold the recount within four days after the receipt of the affidavit. I am familiar with the case which you have mentioned, but I might add that there are at least ten recounts at each general election since this section has been in the Act, and this is the first judge who has ever interpreted it in that manner. When the recount came up, the judge acting at the recount threw out the recount because it was not held within the proper time. The original judge had set a date for the recount about five weeks after the receipt of the affidavit. There have been at least ten recounts at every general election, at general elections held in the last 30 years, and this is the first judge who has interpreted the provisions of that section in that manner. Possibly it needs clarification.

The WITNESS: That the recount be held within four days after the receipt of the affidavit. It has to be; otherwise he may set a date six months after the affidavit, and then the successful candidate could not take his seat, if the judge were so disposed until six or seven months after polling day. At every recount which I have experienced personally or heard of, the interpretation has been that the recount shall be held within four days after the receipt of the affidavit, in order to allow the proper function of declaring the candidate elected and allowing him to take his seat in the House of Commons. This is the first time to my knowledge that a judge has ever put such an interpretation on this section.

By Mr. Zaplitny:

Q. Would it not be clearer if it were stated that the day of the recount shall be not more than four days after, or exactly four days after, the date of the receipt of the affidavit, so as to pinpoint the date?—A. I think it is pinpointed.

Q. It says that the judge shall appoint a time within four days. Does that refer to the appointing of the time or the recount?—A. It has given rise to confusion on one occasion.

Q. It could do to others?—A. It says: "The said judge shall appoint a time within four days after the receipt of the said affidavit to recount the said votes". I do not know if it would need clarification.

Q. It is ambiguous to this extent that the words, "shall appoint a time—" —A. To recount the votes.

Q. No, it does not say that. It says, "Shall appoint a time within four days". The question is whether he is being asked to set a date within four days, that is to make his decision within four days as to when the date shall be, or whether he is asked to make a recount within four days.

The CHAIRMAN: Does the committee wish the Chief Electoral Officer to redraft that in order to clarify and pinpoint it?

Mr. NOWLAN: If one judge went astray on it, there must be some misapprehension. I think that should be done.

The CHAIRMAN: Is it agreed that the Chief Electoral Officer should redraft that?

Mr. NOWLAN: That the recount will begin within four days? It must not be finished within four days?

The WITNESS: No, begin.

The CHAIRMAN: Is it agreed?

Agreed.

The CHAIRMAN: Schedule One, Form No. 1.

The WITNESS: The amendments for all the forms in Schedule One in my draft bill are for clarification or consequential to amendments that have been already passed by the committee.

The CHAIRMAN: Form No. 1?

No change.

Form No. 2?

No change.

Form No. 3?

No change.

Form No. 4?

No change.

Form No. 5. Refer to page 11 of the draft bill.

The WITNESS: The only change is in the words which are underlined. It is for clarification.

Mr. WHITE (*Waterloo South*): I so move.

The CHAIRMAN: Mr. White moves that form No. 5 as amended shall carry. Carried.

The CHAIRMAN: Form No. 6?

That is also to be found on page 11 of the suggested amendments.

Mr. WHITE (*Waterloo South*): I so move.

The CHAIRMAN: This is for clarification only. Mr. White moves that amendment to form No. 6 carry.

Carried.

The CHAIRMAN: Form No. 7?

No change.

Form No. 8.

Mr. NOWLAN: Somebody has written a rather pathetic letter complaining about the fact that she is called a spinster. Although I have no great brief for her, I presume that the printers will naturally follow the example set here that every unmarried girl is referred to as a spinster. This letter states that in this day and age when women follow various occupations, she should be called housewife or nurse, or something of the kind, rather than spinster.

The CHAIRMAN: In Northumberland we call them unclaimed treasures.

Mr. ROBINSON (*Bruce*): That would be a very fitting description.

Mr. POULIOT: The definition of the word spinster is "unmarried woman". There is a difference between a spinster and an old maid.

Mr. NOWLAN: Not in popular usage in English.

Mr. POULIOT: According to the dictionary.

Mr. NOWLAN: I think that any girl under forty-five years of age objects to being called a spinster, or perhaps under fifty-five.

Mr. POULIOT: Because they do not know the meaning of the word.

Mr. NOWLAN: That may be true, but there is a popular usage as well as the dictionary meaning. I am not arguing with it, but I think that the term is not necessary. In the case of a married woman, I presume that she is called a housewife.

The WITNESS: When the wife appears under the husband's name, no occupation is given. I do not know of a better word than "spinster", but I am in the hands of the committee in this matter.

Mr. WHITE (*Waterloo South*): If they have an occupation—

Mr. NOWLAN: If a girl is a stenographer or bookkeeper or nurse, I do not know why she should have to be called a spinster.

The WITNESS: Where the person gives an occupation, it is put down exactly as given.

Mr. NOWLAN: They give it in the urban places, but certainly not in the rural.

The WITNESS: But where an occupation is given it is put down as given. When there is no known occupation, I suppose that the enumerator puts "spinster".

Mr. NOWLAN: I am not arguing with that.

The CHAIRMAN: Form No. 8?

No change.

Mr. NOWLAN: I think it would be better if we amended that example. A printer might think that it is mandatory.

The WITNESS: The enumerator has a specimen list, and the original list is prepared in the same manner as this specimen.

Mr. NOWLAN: I would suggest that on the next list instead of saying "Miss Lily Moffatt, spinster", it would be better to say "nurse".

An Hon. MEMBER: She might not be a nurse.

The CHAIRMAN: Form No. 8.

No change.

The CHAIRMAN: Form No. 9?

No change.

Form No. 10?

Mr. NOWLAN: Is there any affidavit which the printers have to take with respect to printing election material? Is this just with reference to the printing of the list?

The WITNESS: Form No. 10 pertains to printing of lists. Then there is one about ballots form 36.

Mr. NOWLAN: That is what I was thinking of. That is right.

The CHAIRMAN: Form No. 10?

No change.

Form No. 11?

No change.

Form No. 12?

No change.

Form No. 13?

No change.

Form No. 14?

There is a draft amendment which will be found on page 12.

Mr. RICHARD (*Ottawa East*): I so move.

The CHAIRMAN: Mr. Richard moves that Form No. 14 as amended be carried.

Carried.

The CHAIRMAN: Form No. 15?

No change.

Form No. 16.

There is an amendment to that, which will be found on page 14 of the draft amendments.

Mr. NOWLAN: What is the change there?

The WITNESS: That is the change of the days for revision.

Mr. CARDIN: I so move.

The CHAIRMAN: Mr. Cardin moves that Form No. 16 as amended carry.
Shall it carry?

Carried.

The CHAIRMAN: Form No. 17.

That will also be found on page 15 of the draft amendments.

Mr. CARDIN: I so move.

The CHAIRMAN: Mr. Cardin moves that Form No. 17 as amended carry.
Carried.

The CHAIRMAN: Form No. 18?

No change.

Form No. 19.

There is an amendment to that, which will be found on page 16 of the draft amendments.

Mr. WHITE (*Waterloo South*): I so move.

The CHAIRMAN: Mr. White moves that Form No. 19 as amended carry.

Carried.

The CHAIRMAN: Form No. 20?

No change.

Form No. 21?

No change.

Form No. 22?

That is on page 17 of the draft amendments.

Moved by Mr. Pouliot that Form No. 22 as amended be carried.

Carried.

The CHAIRMAN: Form No. 23?

No change.

Form No. 24?

No change.

Form No. 25?

No change.

Form No. 26?

No change.

Form No. 27?

No change.

Form No. 28?

No change.

Form No. 29?

No change.

Form No. 30?

No change.

Form No. 31?

There is a suggested amendment, to be found on page 18 of the draft amendments.

Mr. NOWLAN: What is that for?

The WITNESS: A change in terminology and an improvement in the form.

Mr. MACKENZIE: I so move.

The CHAIRMAN: Mr. MacKenzie moved that Form No. 31 as amended carry.

Carried.

The CHAIRMAN: Form No. 32?

No change.

Form No. 33?

No change.

Form No. 34?

No change.

Form No. 35?

No change.

Form No. 36?

By Mr. Nowlan:

Q. In regard to Form No. 36, Mr. Chairman, I do not know what change you would want in that form. This is a situation that happens quite often. The printer who is printing the ballot paper will at the same time be printing specimen ballots to be used by one or other of the various political parties. Sometimes, by some strange inadvertence, the specimen ballot which has been produced is an exact replica of the official ballot. A great deal of confusion, to express it mildly, has sometimes ensued from that. Somebody hands that specimen ballot which in every way is an exact replica of the official ballot, except that it has an X on it. It has caused a great deal of confusion, and it has been the subject of some judicial comment and so forth. I was wondering if the official affidavit should be altered so that the printer would swear that he has printed no ballots similar to those delivered to the returning officer. Sometimes you find a political party getting an exact replica of the ballot

except that it has not the stamp of the returning officer on the back of it. I have known these to be inserted in ballot boxes. They slip in very easily. It is something which I think should be corrected.—A. We had printed for the deputy returning officer a sketch showing him how to handle the ballot paper. We also provide him with a specimen ballot, and we have the word "specimen" printed across the face of it.

Q. No, it is not that, Mr. Chairman. Every political party, of course, does have specimen ballots printed, usually so that the canvassers can go around and say to people, "We would like you to put your X there". I have seen some specimens, and I would not say that they were printed off the same paper, because that would suggest that somebody got some of the paper cheaply, but certainly the paper on which the specimen was printed looked remarkably like the official ballot paper and in every way, shape and form the specimen was the same. It is run off by the same printer at the same time, or right after. Sometimes the X is marked in after with a pencil, because the printer did not put an X on with the machine. I think that the affidavit should be tightened up so that the printer has to swear that he has not printed ballots of any kind except for the returning officers.—A. There would be practical difficulties. That would prevent the printer who is printing ballot papers from doing that, but what about other printers? When a printer signs this affidavit, he cannot very well legally use the same paper. Every sheet is accounted for. We supply them with ballot paper in this form. I am not saying that it may not have happened, but I do not see how he can possibly use this paper after taking that affidavit.

The CHAIRMAN: The printer has to account for all ballot paper sent to him, whether it is printed on or not.

The WITNESS: This is a sheet which we supply to the printer. We know that if there are two candidates he can make sixteen ballots out of this sheet. After the printer takes that affidavit, I do not see how he could legally use this paper. He has to return any unused ballot paper. I do not see how he can legally use this paper and print specimen ballots for candidates.

Mr. NOWLAN: I am not saying that he uses that paper, but paper so close to it that the layman cannot tell the difference. Whether you have a special paper—

The WITNESS: This is a special paper, which has special identification marks known only to the Queen's Printer and myself. It is a watermarked paper and bonded paper and it cannot be duplicated very easily.

Mr. WHITE (*Waterloo South*): The only way in which you could correct that would be by having an instruction sent out to all printers that they could not print any sample ballots unless they were marked "specimen".

Mr. NOWLAN: Perhaps there should be a section in the Act to the effect that any specimen ballot used should be stamped across the face: "specimen". That would clear up the situation very easily.

Mr. RICHARD (*Ottawa East*): It is hardly a specimen ballot. It is not on the same paper. It is an imitation of another ballot.

Mr. NOWLAN: The subsection I had in mind was on the imitation of a ballot.

Mr. RICHARD (*Ottawa East*): It comes under corrupt practices under the Act.

Mr. NOWLAN: I do not think it does. I was suggesting that perhaps we might have another section to the effect that a specimen ballot should be marked "Specimen".

The WITNESS: Section 29 on page 53 provides for the offences in connection with the printing of ballots.

Mr. NOWLAN: Those deal with official ballot papers.

The WITNESS: No.

The CHAIRMAN: That deals with other papers. Subsection (d) on page 53.

The WITNESS: Clause (h) might cover that.

Mr. NOWLAN: That might cover it.

Mr. LEBOE: It is very hard to prove the intent.

The CHAIRMAN: Form No. 36?

No change.

The CHAIRMAN: Form No. 37?

No change.

Form No. 38?

No change.

Form No. 39?

No change.

Form No. 40?

You will find that on page 19 of the draft amendments.

Mr. RICHARD (*Ottawa East*): I so move.

The CHAIRMAN: Mr. Richard moves that Form No. 40 as amended carry. Carried.

The CHAIRMAN: Form No. 41?

No change.

Form No. 42?

The WITNESS: An affidavit of qualification is used only in urban polling divisions.

Mr. NOWLAN: The voter is required to swear to each one of those?

The WITNESS: Yes.

The CHAIRMAN: Is it agreed that there be no change in Form 42?

No change.

Form No. 43?

No change.

Form No. 44?

No change.

Form No. 45?

No change.

Form No. 46?

No change.

Form No. 47?

No change.

Form No. 48?

No change.

Form No. 49?

No change.

Form No. 50?

No change.

Form No. 51?

No change.

Form No. 52?

No change.

Form No. 53?

No change.

Form No. 54?

No change.

Form No. 55?

No change.

Form No. 56?

There is an amendment on page 20 of the draft amendments.

Mr. MACKENZIE: I so move.

Moved by Mr. MacKenzie that Form No. 56 as amended carry.

Carried.

The CHAIRMAN: Form No. 57.

That will be found on page 20 of the draft amendments.

Moved by Mr. MacKenzie that Form No. 57 as amended carry.

Carried.

The CHAIRMAN: Form No. 58.

No change.

Form No. 59?

No change.

Form No. 60?

Mr. NOWLAN: Do we have to make a change in that because of the change which we made this morning with regard to the \$1,000?

The WITNESS: That does not affect this form.

The CHAIRMAN: Form No. 60?

No change.

Form No. 61?

No change.

Form No. 62?

No change.

Form No. 63?

No change.

Form No. 64?

No change.

Forms Nos. 65 and Form No. 66 should stand, on account of Mr. Zaplitny's request in connection with section 94, until Mr. Zaplitny brings in his amendment.

Schedule Two to the Act also stands.

Schedule Three.

Mr. NOLAN: We have a number of amendments in Schedule Three. I think that we should spend a day on that alone and clear up the matter of services voters rather than trying to deal with it piecemeal now. I think we could save time by postponing it rather than beginning to deal with it now.

The CHAIRMAN: I think that is a very fair and good suggestion. I think that the members of the committee will agree with that.

Mr. NOLAN: We will have one day to work on that, and we have also Mr. Zaplitny's amendment to deal with, and I think that is all.

Mr. RICHARD (*Ottawa East*): Is there much else that we have not covered, besides the forces' vote and any possible amendment to the advance polls?

The CHAIRMAN: Sections 14, 16 and 21 dealing with the qualifications of electors and rules of residence, were stood over.

By Mr. Richard (Ottawa East):

Q. Who stood that, and why?

The WITNESS: There are consequential amendments with regard to the forces in these sections. Some members wanted to speak on the question of the franchise of Indians, and the clause with regard to Doukhobors which you may want to repeal.

Q. Are there any other matters standing?—A. Not that I know of.

Q. Maybe we could finish everything at the next sitting. I move that we adjourn.

The CHAIRMAN: We will meet on Thursday morning. We will see how we get along, and maybe we will have to meet again in the afternoon of that day. The committee will adjourn.

The committee adjourned.

